

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

In re:)	
)	
Sandpoint Cattle Company, LLC)	
)	
Debtor.)	No. 8:14CV174

On June 10, 2014, the Court entered an order on claim nos. 6 and 9. At the conclusion of the Order the Court directed the parties to meet and confer in an attempt to determine the amount of accrued interest, whether the claim was over or under secured, and if there were any points omitted or errors made in the opinion that could be rectified without the necessity of filing post-judgment motions. The Court has now received filings from the parties and will address the issues raised.

First, as to possible errors in the opinion, the creditor, Alger Cattle Company, LLC, and Raymond Alger and Mary D. Alger, as Trustees of the R & M Alger Family Trust ("Secured Creditors") have filed a status report. In that report, the Algers addressed three areas in which they believe the Court undervalued the amount of their allowed secured claim. The first point relates to values used as it relates to the issue of "double counting." Specifically, the secured creditor argues that the Court used the wrong figures from the March 15, 2008 inventory. For the reasons stated on the record, that request to amend the amount of the allowed secured claim is denied. Likewise, the third issue which relates to expenses attributable to the December 9 and 10, 2013, at the Ogallala sale barn is also denied for the reasons stated on the record at the hearing held in this case on June 26, 2014.

The second issue relates to the interplay between the allowance against the secured claim for "double counting" and the AM carrier issue. While the Court is not convinced that there might have been some credits given to the Debtor under each category (that is, double counting and AM carrier) it is virtually impossible at this point to reconcile and determine what those credits might be. Specifically, the AM carrier issue was settled without any enumeration of the cattle which formed

the basis of the settlement. The Court will also note that Exhibit 416 is not admitted into evidence. As a result, the Court does not believe it can determine what credit, if any, should be given for possible inclusion of the same cattle on both double counting list and the AM carrier list. Accordingly, the amount of the final allowed secured claim will be determined as outlined in the Findings of Fact and Conclusions of Law of the June 10, 2014, order.

The Court also directed the parties to meet and confer as to the accrual of interest through the date of the June 10, 2014, order. A status report was filed by the secured creditor which indicates that the secured creditor will accept the figures used by the Debtor in determining the amount of secured claim. The numbers attached to the status report (document 574) as Exhibit 2, show that the allowed secured claim as of June 10, 2014, to be \$7,081,251.62. That claim continues to accrue interest from and after that date in the amount of \$931.62 per day.

The parties were also directed to confer as to whether the Alger interest would be considered an over secured creditor for purposes of the allowance of post-petition interest and attorneys' fees. See, 11 U.S.C. § 506(b). The parties did stipulate at the hearing that the secured creditor in this case is an over secured creditor.

IT IS THEREFORE ORDERED that all requests to modify the Findings and Conclusions contained in the June 10, 2014, order are denied.

IT IS FURTHER ORDERED that Alger Cattle Company, LLC and Raymond Alger and Mary D. Alger, as Trustees of the R & M Alger Family Trust are allowed a secured claim in the amount of \$7,081,251.62, as of June 10, 2014, with interest accruing from and after that date at the rate of \$931.62 per day.

IT IS FURTHER ORDERED that for purposes of 11 U.S.C. § 506(b) & (c) Alger Cattle Company, LLC and Raymond Alger and Mary D. Alger, as Trustees of the R & M Alger Family Trust are considered over secured creditors.


IT IS FURTHER ORDERED that pursuant to the order of June 10, 2014, Alger Cattle Company, LLC and Raymond Alger and Mary D. Alger, as Trustees

of the R & M Alger Family Trust are allowed an unsecured claim in the amount of \$273,294.00 (claim 9).

IT IS FURTHER ORDERED that a final judgment shall now enter determining the amount of the allowed secured claim (claim 6) and the allowed unsecured claim (claim 9).

IT IS FURTHER ORDERED that judgment shall enter accordingly.

DONE AND ORDERED this 21st day of July, 2014.



Michael J. Melloy, U.S. Circuit Judge
Sitting by Designation